

Cost. of 1871 3/4

REVENUE.

THE BOARD OF REVENUE.

Dec. Dec. Dec.

Dated April 18th.

Recd.

Encl.

G. O., 18th April 1871, No. 684.

294025/11

APRIL.  
Nos. 186-187.

Government-demand on lands attached by  
Civil Courts.—Proceedings Board of Revenue  
on the subject of amending the Civil Procedure  
Code on this point referred to the Legislative  
Department, in view to the subject being brought  
to the notice of the Supreme Government.

No. 15.

Separate Revenue

16. March 1871

The  
Letter to Fort St. George  
No. 3.

Received on the 10th April 1871

Via  
Brindisi & Bombay.

No. 693.

Comm<sup>d</sup> to the  
Board of Revenue  
with reference to  
G. O. 4 January 1871, No. 105.  
J. O. 14 Jan. 1871, No. 105.

18th April 1871.

Sanctioning re-  
quisition for Watermarked  
Paper.

No. 693. 18 April 1871

With order

No 184 & 185

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14 Joke 1871 Dec 1871

No. 15.

Separate Revenue

16. March 1871

M  
Letter to Fort St. George

No. 3.

N-693.

Received on the 10th April 1871

Via

Brindisi & Bombay.

Comm<sup>d</sup> to the  
Board of Revenue  
with reference to  
G.O. 14 January 1871 No. 185.

18th April 1871.

Sanctioning re-  
quisition for Watermark  
Paper.

No. 693-18 April 1871

With order

No 184 & 185

*Proceedings of the Madras Government, Revenue Department,  
18th April 1871.*

No. 186. Read the following Proceedings of the Board of Revenue, dated 21st January 1871, No. 310 :—

Read the following Proceedings of the Madras Government, dated 30th November 1870, No. 1,891, Revenue Department.

ABSTRACT.—Government dues on land under attachment in execution of a decree.—Advocate-General's opinion as to the course to be pursued for the purpose of their realization, communicated to Board of Revenue.

THE Board are of opinion that the law being as it is should be amended as the Advocate-General proposes.

2. There can be no doubt but what Government always have a lien to the extent of the legitimate State-demand on all land and its produce, and it must be through an oversight that the Civil Procedure Code makes it impossible to realize Government dues in any case.

3. The Board observe that Mr. Norton believes it is even now possible for Government to protect itself, by not permitting arrears to accrue; but in making this suggestion he has overlooked the fact that arrears accrue after as well as before land is attached.

No. 187. ORDER THEREON, 18th April 1871, No. 694.

Miscellaneous.

THE state of the case appears to be, that where land is attached after judgment by order of Court, under

Section 243, Act VIII. of 1859, the Receiver cannot legally apply any of the funds, which may come to his hands, in satisfaction of Government dues on the land accruing, whether before or after such attachment; and that where sale of such attached land takes place under Section 249 of the Act (Civil Procedure), notice of the intended sale must be given to the Collector; and if Government so direct under Section 248, the sale shall be conducted on the requisition of the Court by the Collector, who will then have the opportunity of notifying all intending purchasers of the amount of arrears due to Government on the land, which is sold subject to all encumbrances, so that purchasers may regulate their offers accordingly.

2. The Court-attachment after judgment bars any action of the Collector, under Madras Act II. of 1864, for the recovery of arrears of revenue, and there is no law which declares the State-dues to be a first charge on the land. The Judges of the High Court have declined to include Government arrears in the Court Sale Notices.

3. Thus, while there appears to be no ultimate defeat of the Government claim on the land as security for the State-dues, there is nothing to prevent inordinate delay in their realization, seeing that no limit is provided by law for the duration of the Court's attachment, in the course of which interest on previous arrears may accumulate and fresh arrears may accrue.

funds

Proceedings of the Madras Government, Revenue Department,  
18th April 1871.

4. The question whether Government dues should not be made a first charge on the rents and profits, etc., collected by a Receiver under Section 243 of the Civil Procedure Act, appears to the Government well deserving of consideration, and these papers will accordingly be referred to the Legislative Department in view to the subject being brought under the notice of the Supreme Government.

(True Extract.)

(Signed)

W. HUDLESTON,

Secretary to Government.

Submg. opinion that Civil  
Procedure Code should be amended  
as proposed by Adm. Genl, so that  
Govt demand on lands attached  
by Civil Courts shall be first  
charge on such lands.

J. B. C.

*[Signature]*

Rev. Dept. 2<sup>nd</sup>  
#694.  
Pros of the Madras Govt.

Under date the 18<sup>th</sup> April 1871

That the following

Pros of the Bd. of Revenue

had submitted to the

Adm. Genl. on the 21<sup>st</sup> Jan. 1871.

with the 21<sup>st</sup> Jan. 1871. #310

the Receiver of the

land is attached after

judgment by order of Court

under Section 243, Act 8 of

1859, the Receiver cannot

legally apply any of the

funds

lands which may come to his  
hands, in satisfaction of Govt  
dues on the land accruing

whether before or after such  
attachment; and that where

sale of such attached land  
takes place under section 249

of the Act (Civil Procedure)

notice of the intended sale

must be given to the collector,

and if Govt is direct under

section 248 the sale shall

be conducted on the requisition

of the Court by the

collector who will then have

the opportunity of notifying

all intending purchasers

of the amount of arrears

34  
due to Govt on the land,  
which is sold subject to all  
incumbrances, so that purchasers  
may regulate their  
offers accordingly.

2. Where the Court attachment  
after judgment bars any  
action of the Collector under

Madras Act 2 of 1864 for  
the recovery of arrears of  
Revenue, and there is no  
law which declares the  
State dues to be a first

charge on the land. The  
Judges of the High Court  
have declined to include

Govt arrears in the Court  
Sale Notices.

Thus

3. Thus while there appears to be no ultimate defeat of the Govt. claim on the land as security for the State dues, there is nothing to prevent inordinate delay in their realisation, seeing that no limit is provided by law for the duration of the court's attachment in the course of which interest on previous arrears may accumulate and fresh arrears may accrue.

4. The question whether Govt. dues should not be made

made a first charge on the rents and profits, <sup>see</sup> collected by a receiver under section 243 of the Civil Procedure Act, appears to the Govt. well deserving of consideration, and these papers will accordingly be referred to the Legislative Department in view to the subject being brought under the notice of the Supreme Court.

L. A.

14. Public Works Dept. 19  
5 - Legislative Dept.

L. A.

1901.  
Relative to the  
amendment of  
the Civil Procedure  
Code. —

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*Proceedings of the Madras Government, Revenue Department,  
18th April 1871.*

Read the following :—

No. 188. Proceedings of the Board of Revenue, dated 15th March 1871.  
Read Proceedings of the Madras Government, Revenue Department, dated 2nd March 1871, No. 384.

THE cost of the present establishment is given in Board's Proceedings, dated 14th October 1870, No. 6,115 (which were submitted to Government), as Rs. 183 a-month.

2. The Superintendent of Stamps will report if any further reduction has been found possible.

No. 189. Proceedings of the Board of Revenue, dated 1st April 1871, No. 1,438.

Read the following letter from the Superintendent of Stamps, to the Acting Secretary to the Board of Revenue, dated Madras, 28th March 1871, No. 456.

WITH reference to the 2nd paragraph of the Order of Government, dated 2nd instant, No. 384, I have the honour to state that the cost of the temporary establishment now maintained is Rs. 183 as reported in the letter from this Office, recorded in the Board's Proceedings of the 14th October 1870, No. 6,115, and it is for the retention of this, pending the introduction of Adhesive Court Fee Stamps as stated in my letter of the 27th October last, No. 2,901, that sanction was applied for.

SUBMITTED to Government with reference to Board's Proceedings, dated 15th March 1871, No. 1,140.

No. 190. ORDER THEREON, 18th April 1871, No. 695.

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|--------------------------|
| Separate Revenue, No. 9. |
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|---------|
| Stamps. |
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COMMUNICATED to the Acting Accountant-General, with reference to the Order of Government, dated 2nd March 1871, No. 384.

(True Extract.)

(Signed) W. HUDLESTON,  
Secretary to Government.

To the Accountant-General.  
,, the Board of Revenue.

Exd. F. R. Bantleman.

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Govt. of 1871

REVENUE.

THE BOARD OF REVENUE.

Ac, Ac, Ac.

Dated April 18th.

Recd.

Exd.

G. O., 18th April 1871, No. 694.

APRIL.  
Nos. 186-187.

Government demand on lands attached by Civil Courts.—Proceedings Board of Revenue on the subject of amending the Civil Procedure Code on this point referred to the Legislative Department, in view to the subject being brought to the notice of the Supreme Government.